IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 8.11.2006

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

WRIT PETITION No.17737 of 2000

Arulmighu Prasanna Venkatesa
Perumal Thirukoil, Kottur,
rep. by its Executive Officer,
Madras - 85. ... Petitioner

Vs.

1. The Collector of Chennai,
Rajaji Salai, Chennai - 1

2. Bujamma,
3. Babu Sridhar
4. Radha Rani
5. Padmavathy
6. Jaya Chandra
7. P.Hemachandran
8. Nagamani
9. Narasinha Rao
10. Lakshmi Prasad
11. Shiva Prasad ... Respondents

Writ Petition filed under Article 226 of the Constitution of India as stated therein.

For petitioner : M/s.A.S.Kailasam

For respondents : Mr.C.Thirumaran
Government Advocate
for R1
M/s.R.Yashod Vardhan for R8
Mr. P. Punniyakotti for RR 2 to4 , 7, 9 and 11

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O R D E R

The Writ Petition has been filed praying for the issuance of a writ of Certiorari to call for the records in J/20836/97, dated 21.9.1999, on the file of the first respondent and to quash the same.

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The brief facts of the case, as stated by the petitioner, are as follows:

2. It is stated that one Kasturi Radhakrishnan, representing the Madras Citizens Progressive Council, had filed a writ petition in W.P.No.5293 of 1998 for a writ of mandamus to direct the Collector of Madras, the first respondent herein, to enquire into the matter relating to the issue of patta in respect of the land bearing Old S.No.42, T.S.No.104, Block No.16 of Kottur Village, contending that the land was classified as Panchangam Manyam in the settlement records and that it belongs to the petitioner temple and that patta had been improperly granted in favour of one Janaki Ammal, who had no right to the property.

3. Prior to the year 1960, the petitioner temple was managed by Private persons as trustees. Thereafter, the administration of the petitioner temple was brought under the Hindu Religious and Charitable Endowments Act. There were no records available with the petitioner temple relating to the said land, when the administration of the petitioner temple was taken over by the Government Department. It was learnt that the proceedings were taken in respect of the Inam Land under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari Lands) Act No.30 of 1963. After conducting an enquiry, the settlement authorities had handed over the entire records to the Office of the Collector, Chennai. Therefore, the First Bench of this Court, by its order, dated 17.4.1998, made in W.P.No.5293 of 1998 had directed the first respondent herein to dispose of the representation of the petitioner temple within a specified period of three months from the date of the said order. After conducting an enquiry, the first respondent had passed an order, on 21.9.1999. In spite of several requests, the Branch Settlement Officer, Thiruvannamalai, did not comply with the request of supplying the necessary records relating to the settlement proceedings under the Minor Inams Act. Despite a direction given by the first respondent, the copies of the records were not furnished to the petitioner temple as requested. The non-availability of the relevant records has prevented the petitioner temple from making an effective representation. However, the first respondent, by an order, dated 21.9.1999, rejected the claim of the petitioner temple and consequently upheld the issue of patta in favour of the purchasers, who had purchased the land from Janaki Ammal. The order passed by the first respondent, on 21.9.1999, has been challenged by the petitioner temple on several grounds as mentioned in the affidavit filed in support of the writ petition.

4. Heard the learned counsel appearing on behalf of the petitioner as well as for the respondents.

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5. The learned counsel appearing on behalf of the eighth respondent had pointed out that the First Bench of this Court, by its order, dated 17.4.1998, had merely directed the first respondent herein to dispose of the representation of the petitioner temple. Accordingly, an enquiry was held by the first respondent and a final order has been passed, on 21.9.1999, after considering all the aspects on the issue raised before him. He has also pointed out that such an order could only be agitated by way of an appeal under Section 30 of the Inams Abolition Act or by way of a civil suit establishing the rights of the petitioner, if any, since it would depend on facts, which have to be proved by way of evidence.

6. On a perusal of the records available before this Court and on hearing the rival contentions made on behalf of the parties, this Court is of the considered view that in such matters, where the evidence has to be let in on the factual position, to prove or disprove the rival claims of the parties concerned, this Court will be reluctant to interfere invoking its powers under Article 226 of the Constitution of India. However, it is seen that the first respondent had given ample opportunity to the petitioner temple to establish its claims. By the impugned order, the first respondent has held that there were no documents made available on behalf of the petitioner temple to establish its right over the disputed land.

7. In such circumstances, the dispute, with regard to the land in question, cannot be agitated before this Court by way of writ proceedings initiated under Article 226 of the Constitution of India. Therefore, the present writ petition is dismissed with liberty to the petitioner temple to agitate the issues before the appropriate forum in the manner known to law.

With the above observation, the writ petition is disposed of. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Collector of Chennai,
   Rajaji Salai, Chennai - 1

ONE CC TO THE G.P., (SR 53843)

ONE CC TO MR.R. YASHOD VARDHAN, ADVOCATE SR 53432

ONE CC TO MR.P.B. RAMANUJAM, ADVOCATE SR 53306

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NG(CO)

BP/6.12 8.11.2006

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